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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|---------------------------------|---------------------|------------------|
| 09/741,537 | 12/20/2000 | Attiganal Narayanaswamy Sreeram | PU000176 | 6357 |

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[REDACTED] EXAMINER

GEMMELL, ELIZABETH M

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

2882

DATE MAILED: 06/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|------------------|--|
| Office Action Summary | Applicant No. | Applicant(s) | |
| | 09/741,537 | SREERAM ET AL. | |
| | Examiner Elizabeth Gemmell | Art Unit 2882 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 04 April 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1 and 3-7 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1 and 3-7 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 20 December 2000 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Terminal Disclaimer

The terminal disclaimer filed on 4 April 2003 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 09/741,541,09/800,234, and 09/746,242 has been reviewed and is NOT accepted.

The person who signed the terminal disclaimer is not recognized as an officer of the assignee, and he/she has not been established as being authorized to act on behalf of the assignee. See MPEP § 324.

An attorney or agent, not of record, is not authorized to sign a terminal disclaimer in the capacity as an attorney or agent acting in a representative capacity as provided by 37 CFR 1.34 (a). See 37 CFR 1.321(b) and/or (c). Since the terminal disclaimer has not been accepted, the statutory double patenting rejections still stand.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1 and 4-7 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-5 of copending Application No. 09/745784. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/741,541. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the claim to the insulating material comprising a silicate material in application 09/741,541, one of ordinary skill in the art at the time the invention was made would recognize that lead-zinc-borosilicate is a silicate material.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/800,234. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the claim to the insulating material being applied to the screen-facing side to bond the first electrodes to the second electrodes in application 09/800,234, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the insulating material to the

screen-facing side because it would be bonding the first electrodes to the second electrode.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1,3 and 4 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1,3,7 and 8 of copending Application No. 09/746,242. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the claim to an insulating material consisting essentially of a lead-zinc-borosilicate glass doped with Fe₂O₃ in application 09/746,242, one of ordinary skill in the art would recognize that by choosing the transition metal oxide from claim 4 (application 09/741,537) to be Fe₂O₃, the insulating material comprising lead-zinc-borosilicate glass doped with Fe₂O₃ would be achieved.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nosker et al. (US Patent 5,646,478; hereinafter Nosker) in view of Cherukuri (US Patent 5,647,653).

Re claim 1: Nosker discloses in figures 1 and 4, and throughout the specification as a whole, a cathode-ray tube (10) comprising an evacuated envelope (11) having therein an electron gun (26) for generating at least one electron beam (28), a faceplate panel (12) having a luminescent screen (22) with phosphor elements on an interior surface thereof, and a focus mask (25), wherein the focus mask includes a plurality of spaced-apart first conductive strands (40) having an insulating material thereon, and a plurality of spaced-apart second conductive wires (60) orientated substantially perpendicular to the plurality of spaced-apart first conductive strands, the plurality of spaced-apart second conductive wires being bonded to the insulating material (column 5, lines 36+), wherein the insulating material comprises a low porosity lead-zinc-borosilicate glass (column 5, lines 8).

Nosker fails to disclose the median particle size of the lead-zinc-borosilicate glass powder to be less than 1 μ m.

Cherukuri discloses a lead-zinc-borosilicate glass powder having a median particle size less than 10 μ m, which includes 1 μ m.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine the focus mask disclosed by Nosker with that of a particle size of less than 1 μ m because by using a smaller particle size, the surface of the

insulator is less porous, thereby allowing the insulator to have improved contact with the wires as well as facilitating the bond with the wires (column 2, lines 25+).

Re claims 3-5: Nosker discloses in column 5, lines 17+ that the low porosity lead-zinc-borosilicate glass includes transition metal oxides, especially zinc oxide and tin oxide, wherein the zinc oxide has a weight % of 5% which would be included in the claimed range of 2-12% by weight.

Re claim 6: Nosker discloses in column 5, line 11 that the low porosity lead-zinc-borosilicate glass is SCC-11.

Re claim 7: Nosker discloses in column 5, lines 14+ that the transition metal oxides are added to the lead-zinc-borosilicate glass by premelting them with the lead-zinc-borosilicate powder.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Gemmell whose telephone number is (703) 305-1937. The examiner can normally be reached on Monday-Thursday 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on (703) 305-3492. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

emg
June 16, 2003

ROBERT H. KIM
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